

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2021-348-S - ORDER NO. 2021-807
DECEMBER 20, 2021

IN RE: Application of Blue Granite Water Company) ORDER APPROVING
 for Approval of a Sewer Agreement with) SEWER SERVICE
 Shoals Landing, LLC, as Related to Phase 3) AGREEMENT
 of the Shoals Landing Development)

This matter comes before the Public Service Commission of South Carolina (“the Commission”) on the request for approval of a Sewer Agreement (“the Agreement”) between Blue Granite Water Company (“Blue Granite”) and Shoals Landing, LLC. Blue Granite holds a Certificate of Public Convenience and Necessity to provide wastewater services in its service areas in various counties in South Carolina from this Commission. Blue Granite submits that notice and a hearing are not required under the circumstances of this case. Under the Agreement, Blue Granite would provide sewer service to Phase 3 of the Shoals Landing Development, which contains 40 lots. Blue Granite asserts that it has sewer service available to serve this area. The Commission has approved the developer agreements applicable to Phase 1B¹ and Phase 2² of the Shoals Landing Development, and Blue Granite has now entered into an Agreement with Shoals Landing, LLC as applicable to Phase 3 of the development.

As per the Agreement, the Shoals Landing property is projected to ultimately

¹ See Commission Order No. 2021-151 issued March 15, 2021, in Docket No. 2021-35-S.

² See Commission Order No. 2021-272 issued May 12, 2021, in Docket No. 2021-96-S.

consist of one hundred and sixty (160) single family homes, having an estimated daily wastewater usage of 48,000 gpd when completed. The developer desires to develop the property in an undetermined number of phases. The current Agreement is limited to Phase 3 consisting of forty (40) lots, having an estimated daily wastewater usage of 12,000 gpd when completed. Shoals Landing desires Blue Granite to provide wastewater utility service within the property delineated as Phase 3 according to the terms and conditions of the Agreement. According to the Agreement, the property consisting of Phase 3 of the Shoals Landing Development is entirely within the Blue Granite service area in Lexington County, South Carolina.

S.C. Code Ann. Regs. 103-541 (2012) provides that:

No utility shall execute or enter into any agreement or contract with any person, firm, partnership or corporation or any agency of the Federal, State, or local government which would impact, pertain to, or effect said utility's fitness, willingness, or ability to provide sewerage service, including but not limited to the collection or treatment of said wastewater, without first submitting said contract in form to the commission and the ORS and obtaining approval of the commission.

The South Carolina Office of Regulatory Staff ("ORS") has filed a letter with this Commission, stating that it had reviewed the Agreement in question and has determined that this filing complies with S.C. Code Ann. Regs. 103-541. We agree. Clearly, the Agreement between Blue Granite and Shoals Landing, LLC pertains to Blue Granite's ability to provide sewerage service, in that the provision of such service to Phase 3 of Shoals Landing Development would create estimated new usage of 12,000 gpd when completed. Blue Granite agrees to provide the necessary sewer service in the Agreement, whereas the developer agrees to provide the facilities needed for provision of the service.

The Agreement is consistent with the regulation.

Blue Granite states that no notice of hearing is appropriate in this case for approval of the Agreement. First, the Agreement relates only to wastewater facilities and wastewater distribution facilities to serve the property, and no potable water facilities are included. Further, Blue Granite noted that the Agreement is not a “new rate, toll, rental, charge, or classification or a new regulation” under S.C. Code Ann. Section 58-5-240 (2015) or a “new or changed schedule” under S.C. Code Ann. Section 58-5-260, and asserts that, accordingly, notice and hearing are not required. We agree with these assertions and hold that notice and a hearing are not required under the circumstances of this case.

Based on the matters mentioned herein, we make the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Blue Granite Water Company holds a Certificate of Public Convenience and Necessity to provide wastewater services under the jurisdiction of the Public Service Commission of South Carolina.
2. Blue Granite Water Company and Shoals Landing, LLC have entered into an Agreement for Sewer Service by Blue Granite in Phase 3 of the Shoals Landing Development, which is an area included in Blue Granite’s service territory.
3. Phase 3 consists of forty (40) lots in the Shoals Landing Development.
4. Phase 3 would create estimated new usage of 12,000 gpd when completed.
5. Blue Granite desires to provide service to Phase 3 under the Agreement, in return for the provision of facilities to provide the service by Shoals Landing, LLC.
6. Blue Granite has sewer service available to serve Phase 3 of the Shoals

Landing Development.

7. Blue Granite will not provide potable water service to Phase 3 under the Agreement.

CONCLUSIONS OF LAW

1. The Agreement for Sewer Service is governed by S.C. Code Ann. Regs. 103-541.

2. The Agreement for Sewer Service is consistent with and in compliance with S.C. Code Ann. Regs. 103-541.

3. No Notice and Hearing are required for approval of the Agreement for Sewer Service, since wastewater facilities and wastewater distribution facilities are the only facilities addressed by the Agreement, and neither S.C. Code Ann. Section 58-5-240, nor S.C. Code Ann. Section 58-5-260 are applicable to the Agreement.

4. The Agreement in question should be approved.

ORDERING CLAUSES

1. The Agreement for Sewer Service between Blue Granite Water Company and Shoals Landing, LLC for the provision of sewer service to Phase 3 of Shoals Landing Development is hereby approved.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Justin T. Williams, Chairman
Public Service Commission of
South Carolina